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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,376	10/17/2003	Adriana Kliegman	432400	2219

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EXAMINER
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WALCZAK, DAVID J

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/688,376

**Applicant(s)**

KLIEGMAN ET AL.

**Examiner**

David J. Walczak

**Art Unit**

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 12-29 is/are pending in the application.
- 4a) Of the above claim(s) 13-19 and 21-26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27 and 28 is/are allowed.
- 6) ☒ Claim(s) 1-9, 12, 20 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The newly recited limitation of the bias structure being “independent of the valve” (claim 1 and 29) does not have antecedent basis in the specification.

### ***Claim Rejections - 35 USC § 112***

Claims 1-9, 12, 20 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard to claims 1 and 29, it is unclear as to what structure the phrase “independent of the valve” is intended to define, i.e., as the Applicant has not describe this feature in the specification, it is unclear as to what structure this feature defines (see the art rejection below). In regard to claim 12, it is unclear as to whether or not the retaining plate defined therein is intended to define the same retaining plate now defined in claim 1, or a different retaining plate.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3751

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 29 is rejected under 35 U.S.C. 102(b) as being anticipated by White et al. (hereinafter White). White discloses a fluid containing cleaning device comprised of a housing 12 defining a fluid reservoir and an opening, a cleaning medium 20, 25 carried by the housing, a valve 24, 34 carried by the housing for providing communication between the reservoir and the cleaning medium, a closure structure 45 closing the opening, a flexible and resilient actuator 50 adjacent the reservoir and deflectable between a rest position and an actuating position and a bias structure 36, 31, 40 “independent of the valve” (since valve member 24, 34 and bias member 36, 31, 40 are separate elements, they can be considered “independent” of each other, i.e., in as much as the Applicant has defined the limitation “independent of the valve”, the valve and bias member of White are also “independent” of each other) and disposed adjacent to the actuator so that upon depression of the actuator, the bias structure returns the actuator to the rest position.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 12, 20 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wohl et al. (hereinafter Wohl) in view of White. In regard to claims 1-3 and 29, Wohl discloses a fluid containing cleaning device comprised of a housing D defining a fluid reservoir and an opening, a cleaning medium B carried by the housing, a valve 32 carried by the housing for providing communication between the reservoir and the cleaning medium, a closure structure 34 closing the opening, an actuator 26 adjacent the reservoir and deflectable between rest and actuating positions, a retaining plate 20 mounted in the opening and a bias structure 34 "independent of the valve" (as discussed above, as the bias structure 34 and the valve 32 are separate elements, the can be considered "independent" of each other) and disposed between the retaining plate 20 and the actuator for returning the actuator to the rest position. Although the actuator 26 is not disclosed as flexible, as claimed, attention is directed to the White reference, which discloses another cleaning device wherein the actuator 50 is a flexible and resilient domed shaped applicator that abuts the bias member and is deflectable between rest and actuating positions in order to enable the device to be sealed (see column 4, lines 1-8). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the actuator 26 in the Wohl device with such a flexible and resilient dome actuator which seals around the closure structure and abuts the bias member in order to prevent the Wohl device from leaking. Further, upon such a modification, the bias structure would abut the dome portion of the actuator. In regard to claim 4, the portion of the closure that contacts the bias structure defines a "collar" which receives the bias structure. In regard to claim 5, the closure

Art Unit: 3751

includes a cap 27 threaded to the housing. In regard to claim 6, the bias structure is a coil spring. In regard to claim 7, although the Wohl reference does not disclose the material used to make the spring, the Examiner takes official notice that such coil springs are commonly made from metal in order to provide a flexible and resilient spring structure. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the spring in the Wohl device from metal in order to provide the user with a flexible and resilient spring structure. In regard to claim 8, the housing includes a base 16 on which the cleaning medium is carried and having an aperture 17 therein with the valve being movable between open and closed positions relative to the aperture. In regard to claim 9, although the Wohl reference does not disclose that the plate 20 in the shape of a cross, it is the Examiner's position that it would have been obvious to one of ordinary skill in the art at the time the invention was made that plate 20 can be formed to have any suitable shape, including a cross-shape, without effecting the overall operation of the device. In regard to claim 12, the bias structure is mounted between a "collar" of the actuator (as discussed above) and a channel of the retaining plate (the opening in plate 20 through which rod 22 extends is a "channel"). In regard to claim 20, a skirt portion of the closure provides a fluid type seal between the closure and the housing.

***Allowable Subject Matter***

Claims 27 and 28 are allowed.

### ***Response to Arguments***

Applicant's arguments filed 7/13/06 have been fully considered but they are not persuasive. The Applicant contends that the White and Wohl reference are not applicable against claims 1 and 29 since they do not disclose a bias structure "independent" of the valve. As discussed in detail supra, however, since the Applicant has not disclosed what structure this limitation defines, the Examiner is given wide latitude in interpreting this limitation. Accordingly, as the valve and bias members in these references are defined by different elements, the valve and bias members can be considered "independent" of each other.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

As the scope of claim 1 has changed via the amendment, the rejection of claims 2, 4, 8 and 20 based on the White reference was dropped and these claims were reconsidered and rejected via the Wohl reference as discussed above, i.e., the "better" rejection under White was dropped so the claims are now rejected under the next best reference (Wohl). See MPEP 706.02 (I).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the


Art Unit: 3751

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
David J. Walczak  
Primary Examiner  
Art Unit 3751

DJW